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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/871,154

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Howard A. Heller

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EXAMINER

IQBAL, KHAWAR

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

05/11/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/871,154	HELLER ET AL.	
	Examiner	Art Unit	
	KHAWAR IQBAL	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,7 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,7 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "the second operating mode radio circuit" in page 3, line 11. There is insufficient antecedent basis for this limitation in the claim. Specifically, plurality of "a second operating mode radio circuit" were introduced in the claim and it is unclear to which "a second operating mode radio circuit" the Applicant referring.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2, 7, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dowling (20050198199) in view of Hogan et al (20070202877).

Regarding claim 2 Dowling discloses a method of selecting an operating mode radio circuit of a dual mode wireless handset in connection with a handoff of the handset, implemented in the handset, comprising (fig. 1-2, abstract):

associating, with a first wireless subsystem (115, fig. 1) via a first operating mode radio circuit coupled to a server (125, fig. 1) connected to the Internet (122, fig. 1) and coupled to a data base (single or combination, 120, 125,130, 135, fig. 1) configured to contain capability data indicative of the operating mode radio circuit capability of a first or a second wireless subsystem (150, fig. 1) coupled to the server (125, fig. 1) (para. # 0026-0027, fig. 1-2);

transmitting a capability information request to the data base (single or combination, 120, 125,130, 135, fig. 1) including information identifying the second wireless subsystem (150, fig. 1) to which the handset is connected and a specific latitude-longitude location (set of GPS coordinates) of the handset (105, fig. 1) after execution of the handoff from the first wireless subsystem (115, fig. 1) to the second wireless subsystem (150, fig. 1) to retrieve the capability data of the second wireless subsystem (para. # 0069-0070 and 0076);

receiving a capability information response from the second wireless subsystem indicating a second operating mode radio circuit capability of the second wireless subsystem (para. # 0066, 0071, see above); and switching into a second operating mode radio circuit on a condition that the retrieved capability data indicates that the second wireless subsystem is capable of operation in the second operating mode radio circuit (para. # 0069-0071). Dowling does not disclose the specific configuration data including a listing of base stations that border the first wireless system.

In an analogous art, Hogan et al teaches data including a listing of base stations that border the first wireless system (para. # 0023, 0039, 0073). Therefore, it

would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Dowling teaches by specifically adding features data including a listing of base stations that border the first wireless system in order to enhance to provides more accurate measurement list of cells for a user equipment unit for accurate handover taught by Hogan et al.

Regarding claim 7 Dowling discloses wherein the associating comprises designating the data base as a second Internet destination port for the handset (fig. 1-2 and see claim 2).

Regarding claim 25 Dowling wherein the server is designated as a first Internet destination port for the handset, the second wireless subsystems being coupled to the server through the Internet (para. # 0026-0027, fig. 1-2, see claim 2 above).

Response to Arguments

4. Applicant's arguments with respect to claims 2, 7 and 25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHAWAR IQBAL whose telephone number is (571)272-7909. The examiner can normally be reached on 9 am to 6.30 pm Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, GEORGE ENG can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Eng/
Supervisory Patent Examiner, Art Unit 2617

/K. I./
Examiner, Art Unit 2617